

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Arlyn Rodriguez	Team: Team # 3	CCRB Case #: 201300702	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Sunday, 01/27/2013 9:23 AM	Location of Incident: 84th Street and Northern Boulevard (North West Corner)	Precinct: 115	18 Mo. SOL 7/27/2014	EO SOL 7/27/2014	
Date/Time CV Reported Fri, 02/01/2013 10:02 PM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 02/01/2013 10:02 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT James Lee	03259	930421	115 PCT
2. POM Sangwoo Lee	23453	938840	115 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT James Lee	Abuse: Sergeant James Lee stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.SGT James Lee	Abuse: Sergeant James Lee searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Sangwoo Lee	Abuse: Officer Sangwoo Lee questioned § 87(2)(b)	
D.POM Sangwoo Lee	Abuse: Officer Sangwoo Lee frisked § 87(2)(b)	
E.POM Sangwoo Lee	Abuse: Officer Sangwoo Lee searched § 87(2)(b)	

### Case Summary

On February 1, 2013, § 87(2)(b) filed this complaint with the CCRB online (encl. B1 – B4). On January 27, 2013, at approximately 9:23 a.m., on 84<sup>th</sup> Street and Northern Boulevard in Queens, Sgt. James Lee and PO Sangwoo Lee stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. The following allegations resulted from the officers' actions:

- **Allegation A – Abuse of Authority: Sergeant James Lee stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(g)

- **Allegation B – Abuse of Authority: Sergeant James Lee searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(g)

- **Allegation C – Abuse of Authority: Officer Sangwoo Lee questioned § 87(2)(b)**
- **Allegation D – Abuse of Authority: Officer Sangwoo Lee frisked § 87(2)(b)**
- **Allegation E – Abuse of Authority: Officer Sangwoo Lee searched § 87(2)(b)**

§ 87(2)(g)

### Results of Investigation

#### Civilian Statements

##### **Complainant/Victim:** § 87(2)(b)

- § 87(2)(b)

- § 87(2)(b)

##### **CCRB Statement**

§ 87(2)(b)

§ 87(2)(b) was interviewed at the CCRB on February 20, 2013 (encl. C1 – C6). § 87(2)(b) Her CCRB statement is summarized below.

On January 27, 2013, at approximately 9:23 a.m., in the vicinity of 84<sup>th</sup> Street and Northern Boulevard in Queens, § 87(2)(b) and her boyfriend § 87(2)(b) were driving § 87(2)(b)'s mother's car toward a bakery. § 87(2)(b) The trunk of the vehicle was open at the time of the incident, as the lock was broken. However, all of the lights of the vehicle, including the headlights, were functioning properly.

§ 87(2)(b) drove the vehicle as § 87(2)(b) sat on the passenger's side. They drove at a speed of approximately 30 miles per hour, then slowed down to a speed of 10 to 15 miles per hour as they made a right onto Northern Boulevard.

When § 87(2)(b) and § 87(2)(b) were midway through the block, Sgt. James Lee, who § 87(2)(b) identified by name by memorizing it from his nameplate, and his partner PO Sangwoo Lee

approached them in a marked RMP. § 87(2)(b) described Sgt. Lee as an Asian man between 30 and 40 years old. Sgt. Lee is approximately 5'10" tall and has brown eyes and black hair. Sgt. Lee was dressed in uniform at the time of the incident (an NYPD jacket). She described PO Lee as an Asian man in his 30s who is 5'8" tall and has dark hair. PO Lee was dressed in uniform at the time of the incident. One of the officers (either Sgt. Lee or PO Lee) turned on the siren and spoke over the loudspeaker, ordering § 87(2)(b) to pull over.

Accordingly, § 87(2)(b) parked the vehicle. As Sgt. Lee and PO Lee approached the vehicle, one or both of the officers flipped open the trunk and briefly looked through it. Sgt. Lee approached § 87(2)(b) and § 87(2)(b) pulled down the driver's side window. Sgt. Lee asked § 87(2)(b) for his driver's license and registration. Immediately, § 87(2)(b) provide Sgt. Lee with his license and § 87(2)(b) provided him with the registration.

Suddenly, PO Lee approached the passenger's side of the vehicle and swung open the passenger's side door. PO Lee poked his head inside the car and looked through the floor of the car on the passenger's side.

Shortly thereafter, Sgt. Lee told § 87(2)(b) and § 87(2)(b) to exit the car and place their hands on the roof of car. In response, § 87(2)(b) asked Sgt. Lee to explain why PO Lee opened the passenger door. Sgt. Lee provided no response. Subsequently, § 87(2)(b) asked Sgt. Lee to explain why he was pulled over. Sgt. Lee replied, "You don't ask the questions – I ask the questions."

§ 87(2)(b) and § 87(2)(b) exited the vehicle and placed their hands on the roof of the car. Sgt. Lee and PO Lee entered and searched the car. § 87(2)(b) was unable to view the search in its entirety, as her field of view was obstructed by the roof of the car. However, she did observe the backseat being pulled down.

With his hands still on the roof of the car, § 87(2)(b) asked Sgt. Lee one more question. In response, Sgt. Lee instructed PO Lee to handcuff § 87(2)(b). Thus, PO Lee grabbed § 87(2)(b)'s hands and handcuffed him. § 87(2)(b) did not observe any type of struggle or resistance on § 87(2)(b)'s part during the arrest. Meanwhile, § 87(2)(b) asked the officers why he was being handcuffed, to which he was given no response. As § 87(2)(b) was being arrested, Sgt. Lee continued to search the car.

PO Lee walked § 87(2)(b) to the sidewalk, where § 87(2)(b) took a seat. Meanwhile, Sgt. Lee asked § 87(2)(b) to identify the owner of the car. § 87(2)(b) informed him that the car belonged to her mother.

PO Lee then frisked and searched § 87(2)(b). He searched through each of § 87(2)(b)'s pockets and retrieved keys, a wallet, cash, and a pocket knife. As § 87(2)(b) was being searched, Sgt. Lee informed § 87(2)(b) that he was pulled over because Sgt. Lee suspected the car of being stolen, as the trunk was open and the fenders were damaged. After § 87(2)(b) was searched, he was arrested for possession of the pocket knife.

No items were recovered from the search of the car. Furthermore, § 87(2)(b) stated that § 87(2)(b)'s demeanor remained calm throughout the entirety of the incident. A crowd did not gather during the incident.

**Victim:** § 87(2)(b)

- § 87(2)(b)

**CCRB Statement**

§ 87(2)(b) was interviewed at the CCRB on February 20, 2013 (encl. C7 – C12). § 87(2)(g)

When PO Lee approached § 87(2)(b) and § 87(2)(b) through a side-view mirror, § 87(2)(b) observed Sgt. Lee glance briefly inside his car's trunk.

When Sgt. Lee arrived at the driver's side, § 87(2)(b) greeted him with, "Good morning, officer." Sgt. Lee requested § 87(2)(b)'s driver's license and vehicle registration as PO Lee swung open the passenger door. Meanwhile, § 87(2)(b) retrieved the car's registration and § 87(2)(b) retrieved his driver's license. Immediately thereafter, § 87(2)(b) provided Sgt. Lee with the documents.

Suddenly, Sgt. Lee ordered § 87(2)(b) and § 87(2)(b) to exit their car. In response, § 87(2)(b) asked why he was being asked to exit the vehicle and why he was pulled over. Meanwhile, PO Lee entered the vehicle and looked inside of it, specifically at the floor and backseat of the car.

As § 87(2)(b) was being handcuffed, Sgt. Lee informed § 87(2)(b) that he was being arrested because, through his statement, he was "refusing" arrest. Shortly thereafter, Sgt. Lee walked to the passenger's side of the car and searched the car. Sgt. Lee informed § 87(2)(b) that he pulled her and § 87(2)(b) over because their trunk was open. § 87(2)(b) stated that the latch does not close but that it does not swing open. Thus, only someone who is closely examining the trunk could make this observation. Sgt. Lee asked § 87(2)(b) why he had a breaker bar, a wrench, and a 17-millimeter socket in his car. In response, § 87(2)(b) informed Sgt. Lee that he is a mechanic.

A few minutes later, Sgt. Lee told PO Lee to search § 87(2)(b). Accordingly, PO Lee asked § 87(2)(b) if he had anything illegal on his person or anything that could harm him. § 87(2)(b) informed PO Lee that he was carrying a legal pocket knife that was shorter than 2.5 inches in length in his right pants pocket. Furthermore, § 87(2)(b) was carrying his identification card in his left front pants pocket and \$617 cash in his left rear pants pocket. PO Lee frisked and searched each of § 87(2)(b)'s pockets. The pocket knife was recovered from that search.

Meanwhile, Sgt. Lee continued to search the car. He searched the glove compartment, the backseats (he pulled the seats down), and the trunk. Upon searching the trunk, Sgt. Lee removed the tarp from the trunk. No items were recovered from the search of the car.

The supporting deposition for this incident notes that he was pulled over for a broken headlight. However, § 87(2)(b) stated that his headlights were functioning properly at the time of the interview. A crowd did not gather during the incident. Furthermore, § 87(2)(b) did not use profane language and provided the appropriate documents upon request.

### **NYPD Statements:**

#### **Subject Officer: SERGEANT JAMES LEE**

- Sgt. Lee was § 87(2)(b) old at the time of the incident. He is an Asian man who is 5'11" tall and weighs 160 pounds. He has black hair and brown eyes.
- On January 27, 2013, Sgt. Lee worked in uniform from 6:55 a.m. to 3:52 p.m. as a patrol supervisor alongside PO Sangwoo Lee.

#### **Memo Book**

Sgt. Lee's memo book notes verbatim, "0923: 1 under by PO Lee, 84 & NB. 0930: 62a in regard" (encl. D1 – D2).

#### **CCRB Statement**

Sgt. Lee was interviewed at the CCRB on March 18, 2013 (encl. D3 – D5).

On January 27, 2013, at approximately 9:23 a.m., Sgt. Lee and PO Lee arrived in marked RMP 5108 at 32<sup>nd</sup> Avenue and Junction Boulevard in Queens in response to a radio run for a 10-34 (assault in progress). Upon their arrival, the officers that had broadcast the radio run reported that no further units were needed. Moments later, Sgt. Lee observed a westbound vehicle drive past him that had a defective

headlight. The vehicle drove at a speed of approximately 20 to 25 miles per hour. Sgt. Lee acknowledged that the speed at which the car was being driven was below the speed limit and was not a factor in the stop of the vehicle.

As the car drove by, Sgt. Lee observed that the trunk was open halfway, a distance just below a foot. The contents of the trunk were not visible to Sgt. Lee from the opening. Sgt. Lee believed that the lock of the trunk had been “popped” because the trunk was open. The condition of the trunk and the headlight led Sgt. Lee to suspect that the vehicle had been stolen. Accordingly, Sgt. Lee instructed PO Lee to pursue the car.

Sgt. Lee and PO Lee turned on their RMP’s lights and sirens. Sgt. Lee and PO Lee pursued the vehicle for approximately ten blocks before the driver of the car, § 87(2)(b) pulled over the vehicle on 84<sup>th</sup> Street and Northern Boulevard.

Sgt. Lee and PO Lee exited the RMP and, for safety reasons, Sgt. Lee glanced briefly at the trunk as they walked toward § 87(2)(b). At that time, Sgt. Lee did not open or search the trunk. Sgt. Lee approached the passenger’s side and PO Lee approached the driver’s side. PO Lee asked § 87(2)(b) for his license and registration. Sgt. Lee did not know how many times the documents were requested or if they were produced, as his attention was focused on § 87(2)(b) who was on the passenger’s side.

As PO Lee interacted with § 87(2)(b), Sgt. Lee ordered § 87(2)(b) to pull down the car window two to three times: he did so verbally and also signaled for her to do so. § 87(2)(b) looked at Sgt. Lee at one point as he signaled for her to open the window, but did not respond. Just then, Sgt. Lee observed tools, pliers or a screwdriver, on the floor of passenger’s side. The fact that those tools were inside of the car further added to Sgt. Lee’s suspicion that the vehicle was stolen.

As § 87(2)(b) did not open the window, and to ensure that the tools were not used to harm anyone, Sgt. Lee opened the passenger’s side door. Immediately, § 87(2)(b) stated, “The fuck you opening my door for? You don’t have the right to open my fucking door.” Sgt. Lee asked § 87(2)(b) to identify the owner of the car. In response, § 87(2)(b) reiterated that Sgt. Lee had no right to open his door. Sgt. Lee instructed PO Lee to remove § 87(2)(b) from the vehicle so that Sgt. Lee could investigate further.

Thus, PO Lee ordered § 87(2)(b) two to three times to exit the vehicle and § 87(2)(b) complied. PO Lee directed § 87(2)(b) to the back of the car. § 87(2)(b) continuously used profanity, specifically the expletive “fuck,” waved his arms, and walked up and down the sidewalk. PO Lee ordered § 87(2)(b) to stop moving, but § 87(2)(b) did not comply. As PO Lee interacted with § 87(2)(b), Sgt. Lee asked § 87(2)(b) to identify the owner the car and asked her to exit the car so that he could look at the tools. § 87(2)(b) exited the vehicle and Sgt. Lee entered the car. Sgt. Lee retrieved the tools and glanced at the ignition to see if it was “popped.” The passenger’s side floor (where the tools were located) and the ignition were the only part of the vehicle Sgt. Lee looked at. Furthermore, that was the only point Sgt. Lee entered the vehicle throughout the incident. In the meantime, § 87(2)(b) continued to yell and curse, stating “I know my fucking rights. You can’t stop me like that. You have no right to stop me.”

Consequently, Sgt. Lee instructed PO Lee to place § 87(2)(b) in handcuffs, as Sgt. Lee feared for his safety due to § 87(2)(b)’s movements and profane statements. Sgt. Lee told PO Lee to detain § 87(2)(b) until the investigation was complete. Thus, PO Lee placed § 87(2)(b) in handcuffs and directed him to the sidewalk, where he remained as Sgt. Lee spoke with § 87(2)(b). § 87(2)(b) informed Sgt. Lee that the car belonged to her mother and showed Sgt. Lee the vehicle registration. § 87(2)(b) asked why she and § 87(2)(b) were stopped and why Sgt. Lee had opened the passenger’s side door earlier. Sgt. Lee replied that he suspected that the car was stolen because of the open trunk.

Moments later, PO Lee called Sgt. Lee over and showed Sgt. Lee the knife that he had recovered from § 87(2)(b)’s pocket after a search. PO Lee informed Sgt. Lee that, before placing § 87(2)(b) in handcuffs, PO Lee asked § 87(2)(b) if he was carrying anything. § 87(2)(b) told PO Lee that he had

a knife in his pocket. Thus, PO Lee reached into § 87(2)(b)'s pocket and recovered a gravity knife. Sgt. Lee turned to § 87(2)(b) and told him that he was under arrest for possession of a gravity knife.

As § 87(2)(b) did not have a driver's license, Sgt. Lee told her to have her mother retrieve the car from the precinct stationhouse. § 87(2)(b) was transported to the stationhouse.

PO Lee did not enter or search the car during the incident — PO Lee only did so after the incident, after the car was brought to the precinct stationhouse. Sgt. Lee did not see PO Lee and § 87(2)(b)'s interaction as § 87(2)(b) was being handcuffed, since he was talking to § 87(2)(b) at that time. § 87(2)(b) was considered detained until the gravity knife was recovered, at which point he was officially under arrest. Sgt. Lee is aware that PO Lee frisked § 87(2)(b) after he placed § 87(2)(b) in handcuffs. However, Sgt. Lee did not witness the frisk. Sgt. Lee did not instruct PO Lee to frisk § 87(2)(b). To Sgt. Lee's knowledge, PO Lee only searched § 87(2)(b) once he discovered that § 87(2)(b) was carrying a knife. Neither Sgt. Lee nor PO Lee searched the trunk, glove compartment, or backseat of the car.

**Subject Officer: OFFICER SANGWOO LEE**

- PO Lee was § 87(2)(b) old at the time of the incident. He is an Asian man who is 6'0" tall and weighs 200 pounds. He has black hair and brown eyes.
- On January 27, 2013, PO Lee worked in uniform from 7:05 a.m. to 3:40 p.m. as a sergeant operator alongside Sgt. Lee.

**Complaint Report and Arrest Report**

PO Lee completed the criminal complaint and arrest report (encl. D6 – D7; encl. D8 – D10) for § 87(2)(b) which state: "§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

**Criminal Court Complaint**

§ 87(2)(b), § 87(2)(a) 160.50

§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)  
§ 87(2)(b)

**Memo Book**

PO Lee's memo book notes verbatim, "0920: Car stop westbound and 84<sup>th</sup> Street and Northern Boulevard vehicle was seen on 32<sup>nd</sup> Ave and 94<sup>th</sup> Street westbound trunk open. 0923: 1 under at 84<sup>th</sup> Street and Northern Boulevard. 10:00: Start OLBS § 87(2)(b) § 87(2)(b) § 87(2)(b)" (encl. D13 – D14).

**CCRB Statement**

PO Lee was interviewed at the CCRB on March 18, 2013 (encl. D15 – D16).

On January 27, 2013, at approximately 9:23 a.m., PO Lee and Sgt. Lee (in RMP 5108) responded to a 10-34 (assault in progress) requesting additional units at 94<sup>th</sup> Street and 32<sup>nd</sup> Avenue in Queens. Upon their arrival, PO Lee observed a red car traveling westbound at a "pretty fast" speed, 25 to 30 miles per hour. One of the front headlights was broken and the trunk was open. The contents of the trunk were not visible through the opening. The trunk swung open as the car dove past. The defective headlight, the open trunk, and the speed of the vehicle led PO Lee to believe that the vehicle was stolen. PO Lee told Sgt. Lee

that they should stop the vehicle. Thus, PO Lee and Sgt. Lee pursued the car. PO Lee turned on the RMP's lights and sirens, and, a few seconds later, pulled the car over at 84<sup>th</sup> Street and Northern Boulevard.

PO Lee approached the driver's side of the vehicle, as Sgt. Lee approached the passenger's side. Neither Sgt. Lee nor PO Lee looked into or opened the trunk as they approached the car. Sgt. Lee observed tools on the passenger's side floor. PO Lee observed these tools later on, when he drove the car to the stationhouse, after the incident. § 87(2)(b) the driver, rolled down his window. PO Lee asked § 87(2)(b) for his license, registration, and proof of insurance, but he did not provide the documents. The documents were obtained after § 87(2)(b) was arrested.

Due to the fact that § 87(2)(b) who was on the passenger's side, did not open the passenger's side door, Sgt. Lee opened the door. Sgt. Lee did not enter, look through, or search the car at that point. In response, § 87(2)(b) stated, "Fuck you! Why you opened the door? You have no right." PO Lee told § 87(2)(b) to relax and to focus his attention to him, not on Sgt. Lee. In reply, § 87(2)(b) told PO Lee, "Fuck you. Why are you fucking stopping me? You're violating my rights."

As Sgt. Lee spoke with § 87(2)(b) because § 87(2)(b) was combative and uncooperative by cursing at the officers, PO Lee told § 87(2)(b) to exit the vehicle. After instructing him to do so approximately seven times, § 87(2)(b) ultimately complied with the order. Subsequently, PO Lee told § 87(2)(b) three to four times to relax and place his hands on the top of the hood of the car. § 87(2)(b) began cursing at PO Lee and Sgt. Lee. Shortly thereafter, Sgt. Lee asked § 87(2)(b) a question, which § 87(2)(b) ignored. § 87(2)(b) continued to use profanity against the officers and PO Lee continued to tell him to relax. Sgt. Lee instructed PO Lee to place § 87(2)(b) in handcuffs, for safety reasons, because § 87(2)(b) was acting disorderly.

As PO Lee attempted to place § 87(2)(b) in handcuffs, § 87(2)(b) told PO Lee to "fuck off." PO Lee ordered § 87(2)(b) to turn around multiple times. Subsequently, PO Lee asked § 87(2)(b) if he was carrying anything. § 87(2)(b) informed PO Lee that he was carrying a knife. Thus, for his safety, PO Lee frisked § 87(2)(b). As he frisked § 87(2)(b) he felt a hard object in § 87(2)(b)'s front right pants pocket. PO Lee reached into that pocket and recovered a gravity knife. PO Lee did not reach into any other pockets nor did he search any other part of § 87(2)(b)'s body. PO Lee told Sgt. Lee, who was still talking to § 87(2)(b) that he had recovered a knife from § 87(2)(b). Sgt. Lee declared "one under" and, at that point, § 87(2)(b) was considered under arrest. PO Lee brought the car to the precinct stationhouse. The owner of the car, § 87(2)(b)'s mother, arrived sometime later to retrieve her vehicle. Neither PO Lee nor Sgt. Lee entered or searched the car during the incident. Furthermore, neither he nor Sgt. Lee opened trunk of the car during the incident.

#### **Arrest for Incident and Disposition**

- Case number § 87(2)(b) remains open. The next scheduled court date is § 87(2)(b) in Queens County Court (encl. F6 – F12).

#### **Status of Civil Proceedings**

- As of May 6, 2013, which is past the 90-day filing deadline, neither § 87(2)(b) nor § 87(2)(b) has filed a Notice of Claim with the City of New York with regard to this incident.

#### **Civilians Criminal History**

- As of June 27, 2013, Office of Court Administration records reveal no criminal convictions for § 87(2)(b) and § 87(2)(b) (encl. F1 – F5, encl. F6 – F12).

### **Civilians CCRB History**

- This is the first CCRB complaint filed by § 87(2)(b) (encl. A3).
- § 87(2)(b) has not filed any CCRB complaints (encl. A4).

### **Subject Officers CCRB History**

- Sgt. Lee has been a member of the service for 10 years and there is one substantiated CCRB allegation against him (encl. A1).
  - In CCRB case number 200702497, an allegation of abuse of authority was substantiated. The NYPD closed the matter as Department Unable to Prosecute.
- PO Lee has been a member of the service for 7 years and there are no substantiated CCRB allegations against him (encl. A2).

### **Conclusion**

### **Identification of Subject Officers**

Sgt. Lee and PO Lee acknowledged interacting with § 87(2)(b) and § 87(2)(b) during the incident.

### **Investigative Findings and Recommendations**

#### **Allegation A – Abuse of Authority: Sergeant James Lee stopped the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

On January 27, 2013, Sgt. Lee stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants. Sgt. Lee and PO Lee stated that the vehicle was stopped because its trunk lock was broken and one of its headlights was damaged. Consequently, Sgt. Lee and PO Lee suspected that the vehicle was stolen. § 87(2)(b) and § 87(2)(b) stated that the headlights were functioning properly during the incident.

Every vehicle driven on a public highway from one-half hour after sunset to one-half hour before sunrise shall display at least two lighted headlights. NYS Vehicle and Traffic Law, Sec. 375.2 (encl. AA33). An officer may stop vehicle if the officer observes the vehicle commit a violation of the Vehicle and Traffic Law. People v Spencer, 84 N.Y.2d 749 (1995) (encl. AA1 – AA9).

§ 87(2)(g)

§ 87(2)(g)

#### **Allegation B – Abuse of Authority: Sergeant James Lee searched the car in which § 87(2)(b) and § 87(2)(b) were occupants.**

§ 87(2)(b) alleged that, upon approaching her, PO Lee opened the passenger's side door, placed his head inside of the car, and looked at the passenger's side floor. § 87(2)(b) alleged that, upon approaching § 87(2)(b) PO Lee entered the vehicle and looked through the floor and backseat.

Sgt. Lee and PO Lee stated that Sgt. Lee approached the passenger's side and PO Lee approached the driver's side of the vehicle. Sgt. Lee stated that he had made several requests to § 87(2)(b) to open the passenger's side door, but she ignored him. At that time, Sgt. Lee observed tools, pliers or a screwdriver, on the passenger's side floor. To ensure that the tools were not used to harm anyone, Sgt. Lee opened the passenger's side door. At that time, § 87(2)(b) and § 87(2)(b) exited the vehicle



upon request. Subsequently, Sgt. Lee entered the vehicle, retrieved the tools and glanced at the ignition to see if it was damaged. PO Lee stated that Sgt. Lee opened the door, but did not enter or search the vehicle.

An officer may conduct a limited search of a vehicle if that officer observed the defendant make furtive movements prior to the stop. People v. Mundo, 99 N.Y.2d 55 (2002) (encl. AA22 – AA26). An officer may conduct a warrantless search of a vehicle if that officer has probable cause to believe that the vehicle contains contraband, evidence of a crime, a weapon, or some means of escape. People v. Smith, 949 N.Y.S.2d 474 (1996) (encl. AA17 – AA18).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

**Allegation C –Abuse of Authority: Officer Sangwoo Lee questioned** § 87(2)(b)

It is undisputed that, upon being handcuffed, PO Lee asked § 87(2)(b) if he was carrying anything that could harm him.

An officer may conduct a common law inquiry when he or she has founded suspicion that criminal activity is afoot. People v Moore, 6 N.Y.3d 496 (2006) (encl.AA27 – AA30).

§ 87(2)(g)

§ 87(2)(g)

**Allegation D – Abuse of Authority: Officer Sangwoo Lee frisked § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) alleged that PO Lee frisked § 87(2)(b). PO Lee stated that he frisked § 87(2)(b) for safety reasons after § 87(2)(b) informed him that he was carrying a knife.

An officer is justified in frisking an individual when that officer has a reasonable suspicion that that the suspect is armed or poses a threat to public safety. People v. Batista, 88 N.Y.2d 650 (1996) (encl. AA19 – AA21).

§ 87(2)(g)

§ 87(2)(g)

**Allegation D – Abuse of Authority: Officer Sangwoo Lee searched § 87(2)(b)**

§ 87(2)(b) and § 87(2)(b) alleged that PO Lee searched each of § 87(2)(b)'s pockets. PO Lee stated that he only searched the pocket that contained the knife.

An officer may search an individual incident to arrest to ensure his personal safety (*Patrol Guide Procedure 208-05*) (encl. AA31 – AA32).

§ 87(2)(g)

Team: \_\_\_\_\_

Investigator: \_\_\_\_\_  
Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

Supervisor: \_\_\_\_\_  
Title/Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

Reviewer: \_\_\_\_\_  
Title/Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_

Reviewer: \_\_\_\_\_  
Title/Signature \_\_\_\_\_ Print \_\_\_\_\_ Date \_\_\_\_\_